

Attorney's Docket No. 26403.0075

PATENT

BPLODOCS:2056\_1 (11/401)

COMBINED DECLARATION AND POWER OF ATTORNEY

(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL,  
DIVISIONAL, CONTINUATION OR CIP)

As a below named inventor, I hereby declare that:

TYPE OF DECLARATION

This declaration is of the following type: (check one applicable item below)

☒ original

☐ design

☐ supplemental

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NOTE: If the declaration is for an International Application being filed as a divisional, continuation or continuation in-part application do not check next item; check appropriate one of last three items.

☐ national stage of PCT

NOTE: If one of the following 3 items apply then complete and also attach ADDED PAGES FOR DIVISIONAL, CONTINUATION OR CIP.

☐ divisional

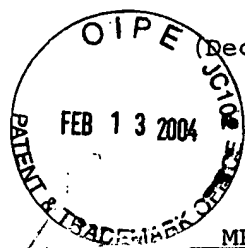
☐ continuation

☐ continuation-in-part (CIP)

INVENTORSHIP IDENTIFICATION

**WARNING:** If the inventors are each not the inventors of all the claims an explanation of the facts, including the ownership of all the claims at the time the last claimed invention was made, should be submitted.

My residence, post office address and citizenship are as stated below next to my name, I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:



TITLE OF INVENTION

METHOD AND DEVICE FOR DETERMINING ACCESS TO A SUBSURFACE TARGET

SPECIFICATION IDENTIFICATION

the specification of which: (complete (a), (b) or (c))

- (a) ☐ is attached hereto.
- (b) ☒ was filed on June 15, 1999 as ☒ Serial No. 09/333,251 or ☐ Express Mail No., as Serial No. not yet known and was amended on                      (if applicable).

NOTE: Amendments filed after the original papers are deposited with the PTO which contain new matter are not accorded a filing date by being referred to in the declaration. Accordingly, the amendments involved are those filed with the application papers or, in the case of a supplemental declaration, are those amendments claiming matter not encompassed in the original statement of invention or claims. See 37 CFR 1.67.

- (c) ☐ was described and claimed in PCT International Application No.                      filed on                      and as amended under PCT Article 19 on                      (if any).

ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information

- which is material to patentability as defined in 37, Code of Federal Regulations, § 1.56.

(also check the following items, if desired)

- ☐ and which is material to the examination of this application, namely, information where there is a substantial likelihood that a reasonable examiner would consider it important in deciding whether to allow the application to issue as a patent, and

- ☐ In compliance with this duty there is attached an information disclosure statement in accordance with 37 CFR 1.98.

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**PRIORITY CLAIM (35 U.S.C. § 119)**

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

(complete (d) or (e))

(d) /X/ no such applications have been filed.

(e) /\_/\_/ such applications have been filed as follows.

NOTE: Where item (c) is entered above and the International Application which designated the U.S. claimed priority check item (e), enter the details below and make the priority claim.

**A. PRIOR FOREIGN/PCT APPLICATION(S) FILED WITHIN 12 MONTHS  
(6 MONTHS FOR DESIGN) PRIOR TO THIS APPLICATION  
AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. § 119**

COUNTRY (OR INDICATE IF PCT)	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 37 USC 119
			/ / YES NO / /
			/ / YES NO / /
			/ / YES NO / /
			/ / YES NO / /
			/ / YES NO / /

**ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS  
(6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION**


**CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S)  
(34 U.S.C. Section 119(e))**

I hereby claim the benefit under Title 35, United States Code, Section 119(e) of any United States provisional application(s) listed below:

PROVISIONAL APPLICATION NUMBER  
60/089,365

FILING DATE  
June 15, 1999

NOTE: If the application filed more than 12 months from the filing date of this application is a PCT filing forming the basis for this application entering the United States as (1) the national stage, or (2) a continuation, divisional, or continuation-in-part, then also complete  
ADDED PAGES TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR  
DIVISIONAL, CONTINUATION OR CIP APPLICATION for benefit of the prior  
U.S. or PCT application(s) under 35 U.S.C. § 120.

**POWER OF ATTORNEY**

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. (List name and registration number)

Martin G. Linihan	Reg. No. 24,926
Edwin T. Bean, Jr.	Reg. No. 16,639
John M. Del Vecchio	Reg. No. 42,475
Ranjana Kadle	Reg. No. 40,041
Kevin D. McCarthy	Reg. No. 35,278
Daniel C. Oliverio	Reg. No. 33,435
David L. Principe	Reg. No. 39,336
R. Kent Roberts	Reg. No. 40,786
Michael F. Scalise	Reg. No. 34,920

(check the following item, if applicable)

/\_/\_/ Attached as part of this declaration and power of attorney is the authorization of the above-named attorney(s) to accept and follow instructions from my representative(s).

**SEND CORRESPONDENCE TO**

Martin G. Linihan  
HODGSON, RUSS, ANDREWS, WOODS & GOODYEAR, LLP  
INTELLECTUAL PROPERTY PRACTICE GROUP  
ONE M & T PLAZA, SUITE 2000  
BUFFALO, NY 14203-2391

**DIRECT TELEPHONE CALLS TO**

(716) 848-1367

**DECLARATION**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**SIGNATURE(S)**

Full name of sole or first inventor \_\_\_\_\_

Michael K. Landi  
(GIVEN NAME) (MIDDLE INITIAL/NAME) (FAMILY (OR LAST NAME))

Inventor's signature 

Date September 23, 1999 Country of Citizenship UNITED STATES  
Residence 85 Argonne Drive, Kenmore, NY 14217

Post Office Address same as residence

Full name of second joint inventor, if any \_\_\_\_\_

Walter Grand  
(GIVEN NAME) (MIDDLE INITIAL/NAME) (FAMILY (OR LAST NAME))

Inventor's signature 

Date September 23, 1999 Country of Citizenship United States  
Residence 114 Chapin Parkway, Buffalo, New York 14209

Post Office Address same as residence

**CHECK PROPER BOX(ES) FOR ANY OF THE FOLLOWING ADDED  
PAGE(S) WHICH FORM A PART OF THIS DECLARATION**

- ☐ Signature for third and subsequent joint inventors. Number of pages added \_\_\_\_\_.
- ☐ Signature by administrator(trix), executor(trix) or legal representative for deceased or incapacitated inventor. Number of pages added \_\_\_\_\_.
- ☐ Signature for inventor who refuses to sign or cannot be reached by person authorized under 37 CFR 1.47. Number of pages added \_\_\_\_.
- ☐ Added pages to combined declaration and power of attorney for divisional, continuation, or continuation-in-part (CIP) application.  
☐ Number of pages added \_\_\_\_\_.
- ☐ Authorization of attorney(s) to accept and follow instructions from representative.

\* \* \*

If no further pages form a part of this Declaration then end this Declaration with this page and check the following item

☒ This declaration ends with this page.

STATEMENT CLAIMING SMALL ENTITY STATUS  
(37 CFR 1.9(e) & 1.27(c)) - SMALL BUSINESS CONCERN

Docket Number 26403.0075

Applicant or Patentee: Michael K. Landi and Walter Grand

Application or Patent No.: 09/333,251

Filed or Issued: June 15, 1999

Title: Method And Device For Determining Access To A Subsurface Target

I hereby declare that I am

☐ the owner of the small business concern identified below:

☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF SMALL BUSINESS CONCERN Minrad, Inc.

ADDRESS OF SMALL BUSINESS CONCERN 836 Main Street  
Buffalo, New York 14202

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I hereby state that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR Part 121 for purposes of paying reduced fees to the United States Patent and Trademark Office. Questions related to size standards for a small business concern may be directed to: Small Business Administration, Size Standards Staff, 409 Third Street, SW, Washington, DC 20415.

I hereby state that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention described in:

☐ the specification filed herewith with title as listed above.

☒ the application identified above.

☐ the patent identified above.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights in the invention must file separate statements as to their status as small entities, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern or organization having any rights in the invention is listed below:

☒ no such person, concern, or organization exists.

☐ each such person, concern, or organization is listed below.

Separate statements are required from each named person, concern or organization having rights to the invention stating their status as small entities (37 CFR 1.27).

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate (37 CFR 1.28(b)).

NAME OF PERSON SIGNING William H. Burns, Jr.

TITLE OF PERSON OTHER THAN OWNER President

ADDRESS OF PERSON SIGNING 836 Main Street, Buffalo, New York 14202

SIGNATURE [Signature]

Date

2/14/00